

**MISSOURI DEPARTMENT OF NATURAL RESOURCES  
LAND RECLAMATION COMMISSION**

In the Matter of:	)	
	)	
AA QUARRY LLC	)	Proceeding Under
AA Quarry Site # 2462	)	The Land Reclamation Act,
Johnson County, Missouri,	)	Sections 444.760 – 444.789, RSMo
New Site Permit Application	)	
	)	
DAVID EARLS,	)	
LORRI ADAMS,	)	
CARY BROWN,	)	
LINDA BURTON,	)	
CREIGHTON & DIANE COX,	)	
RANDY & CLARA CRAVES,	)	
MISTY & DARREN CUTRIGHT,	)	
LEEANN & JESS HAMILTON,	)	
TAMMY HEIDER,	)	
LAURA JONES,	)	
BRAD & JESSICA MANTZEY,	)	
LAURIE & JAMES MARTIN,	)	
JAMES & SUSAN RICHARDS,	)	
ROBERT & LIESL SNYDER,	)	
TIM STAMM,	)	
KYLE STOUT,	)	
	)	
<i>Petitioners,</i>	)	
	)	
v.	)	Permit # 1094
	)	
DEPT. OF NATURAL RESOURCES,	)	
KEVIN MOHAMMADI,	)	
Staff Director,	)	
Land Reclamation Program,	)	
Division of Environmental Quality,	)	
<i>Respondent,</i>	)	
	)	
AA QUARRY LLC.,	)	
<i>Applicant,</i>	)	
	)	

**ORDER UPON ASSIGNMENT OF MATTER TO HEARING OFFICER**

The Land Reclamation Commission by its action on May 23, 2013 granted the request of Petitioners for a Formal Public Hearing under 10 CSR 40-10.080.

W. B. Tichenor has been assigned as the Hearing Officer for this matter.

#### **Attorney for Respondent**

The Hearing Officer is serving this Order on Daren Eppley, Assistant Attorney General, Attorney – Land Reclamation Program. Mr. Eppley shall forward same to the Assistant Attorney General appointed to serve as Attorney for Respondent. Said Assistant Attorney General shall, on or before July, 1, 2013, file his/her Entry of Appearance with the Hearing Officer, via email, copy to Attorney for Applicant.

#### **Attorneys for Petitioners**

##### ***Collective Representation***

If Petitioners are going to be represented collectively by an attorney, then on or before July 9, 2013 the Attorney for Petitioners shall file his/her Entry of Appearance, copy to Attorney for Applicant.

##### ***Individual Representation***

If individual Petitioners are going to be represented by individual legal counsels, then on or before July 9, 2013 the Attorneys for Individual Petitioners shall file their Entry of Appearance, copy to Attorney for Applicant.

##### ***Pro Se Representation***

If any petitioners are going to appear pro se, *i.e. without legal counsel*, then on or before July 9, 2013 each Pro Se Petitioner shall file with the Hearing Officer, their verification that they will be appearing pro se and provide their email address.

#### **Director's Recommendation**

Respondent has recommended that the Commission issue the new site permit application for 214 acres in Johnson County sought by Applicant.

#### **Petitioners' - Asserted Grounds for Denial of Granting the Permit - Pleadings**

On or before August 9, 2013, Petitioners shall file with the Hearing Officer, copy to Counsels for Respondent and Applicant their pleading setting forth the asserted grounds supporting their claims that the Commission should reject the Director's Recommendation and deny the issuance of the new site permit application. Petitioners shall set forth in a concise, but summary fashion:

1. Any claim that a Petitioner's health, safety or livelihood will be unduly impaired by the proposed permitted activity, that is to be established by competent and substantial scientific evidence; and

2. Any asserted act of noncompliance by Applicant during the five-year period immediately preceding the date of the permit application (*December 6, 2007*) demonstrating a pattern of noncompliance at other locations in Missouri that suggests a reasonable likelihood of future acts of noncompliance that is to be established by competent and substantial scientific evidence; and

3. Any asserted defect or deficiency in the application that is in violation of Section 444.772 RSMo or 10 CSR 40-10.020.

Pleadings shall be set forth with sufficient specificity and clarity so that the Hearing Officer, Respondent and Applicant are able to ascertain the exact nature of any and all claims being presented by each Petitioner. General claims that the proposed permitted activity will unduly impair a petitioner's health, safety or livelihood are not sufficiently specific to identify the exact nature of the alleged impairment on health, safety or livelihood. General claims of various acts of noncompliance are not sufficiently specific to identify the exact asserted act of noncompliance. General claims as to defects or deficiencies in the application are not sufficiently specific to identify the exact asserted defect or deficiency.

#### **Response of Respondent and Applicant to Petitioners' Pleadings**

On or before September 9, 2013, Respondent and Applicant shall file with the Hearing Officer, copy to Counsel for Petitioners their separate Response to Petitioners' Pleadings.

#### **Submission of Pleadings and Responses**

Parties may submit their pleadings to the Hearing Officer as email attachments in WORD or pdf format. It is not necessary to mail hard copies to the Hearing Officer of those pleadings submitted as email attachments. Parties may submit their pleadings via USPS or private carrier service. Pleadings include Motions, Answers, Responses, Memoranda, Suggestions and all other such documents presenting to the Hearing Officer matters related to the pending matter. Pleadings do not include exhibits to be introduced at the Hearing.

### Caption of Case

The Caption for the case that is to be used should be in substantially the following form:

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DEPT. OF NATURAL RESOURCES,	)	
KEVIN MOHAMMADI,	)	
Staff Director,	)	
Land Reclamation Program,	)	
Division of Environmental Quality,	)	
<i>Respondent,</i>	)	
	)	
AA QUARRY LLC.,	)	
<i>Applicant,</i>	)	
	)	

### Email Addresses of Attorneys of Record

If the email address utilized in this Order for any Attorney of Record is not that which the Attorney wishes to be used in this matter, such Attorney is to send to the Hearing Officer an email message setting forth the email address that is to be utilized.

If an attorney has an assistant, paralegal or secretary that the attorney wishes to be copied on Orders or other correspondence from the Hearing Officer, the name(s) of such individual(s) and email address(es) are to be provided to the Hearing Officer.

SO ORDERED June 17, 2013.

MISSOURI DEPARTMENT OF NATURAL RESOURCES



W. B. Tichenor, DNR – Hearing Officer  
3710 Shadow Glen Ct.  
Columbia, MO 65203-4844  
[wbtichenor@gmail.com](mailto:wbtichenor@gmail.com)  
573-864-4549 cell  
573-751-1712 (o)  
573-751-1341 FAX

### ***Certification of Service***

I hereby certify that a copy of foregoing has been send via email this 17<sup>th</sup> day of June, 2013, to:

G. Steven Ruprecht, Attorney for Applicant: [ruprecht@brlawkc.com](mailto:ruprecht@brlawkc.com)

Daren Eppley, Assistant Attorney General, Attorney Land Reclamation Program:

[Daren.Eppley@ago.mo.gov](mailto:Daren.Eppley@ago.mo.gov)

Kevin Mohammadi, Staff Director, LRP, Respondent: [Kevin.Mohammadi@dnr.mo.gov](mailto:Kevin.Mohammadi@dnr.mo.gov)

Lauren Cole, Program & Commission Secretary: [lauren.cole@dnr.mo.gov](mailto:lauren.cole@dnr.mo.gov)

I hereby certify that a copy of the foregoing has been mailed postage prepaid this 18<sup>th</sup> day of June, 2013 to:

Robert Radmacher, AA Quarry, LLC, 2201 N. State Route 7 Hwy, Suite B, Pleasant Hill, MO 64080 – Agent for Applicant

#### Petitioners:

David Earls, 444 NW 1851<sup>st</sup> Rd., Kingsville, MO 64061  
Misty & Darren Cutright, 405 NW AA Highway, Kingsville, MO 64061  
LeeAnn & Jess Hamilton , 378 NW 1851 Rd, Kingsville, Mo. 64061  
Laura Jones, 1826 NW 530th Road, Kingsville, MO 64061  
Randy & Clara Cravens 1844 NW 530 Rd., Kingsville, MO 64061  
Robert and Liesl Snyder, 276 NW AA Hwy, Kingsville, MO 64061  
Laurie & James Martin, 370 NW 1771 Rd., Kingsville, MO 64061  
Tim Stamm, 1920 NW 500<sup>th</sup> Road, Kingsville, MO 64061  
Creighton & Diane Cox, 1884 NW 260<sup>th</sup> Road, Kingsville, MO 64061  
Tammy Heider, 1740 NW 450 Rd., Kingsville, MO 64061  
Lorri Adams, 389 NW 1851<sup>st</sup> Rd., Kingsville, MO 64061  
Kyle Stout, 1883 NW 260<sup>th</sup> Rd., Kingsville, MO 64061  
Brad & Jessica Mantzey, 407 NW AA Hwy., Kingsville, MO 64061  
James & Susan Richards, 408 NW AA Hwy., Kingsville, MO 64061  
Linda Burton, 1776 NW 200 Rd., Kingsville, MO 64061  
Cary Brown, 382 NW 1851 Rd., Kingsville, MO 64



W. B. Tichenor, DNR – Hearing Officer